

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN FRATUS,

Plaintiff,

v.

DAYSON, et al.,

Defendants.

No. 2:20-cv-0354 TLN DB P

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff alleges that he suffered side effects from psychiatric medication and was denied medical treatment. Presently before the court is plaintiff's motion to modify the discovery and scheduling order (ECF No. 106) and motion for court intervention (ECF No. 105). For the reasons set forth below, the undersigned will grant the motion to modify the discovery and scheduling order and grant the motion for court intervention.

I. Plaintiff's Motion to Modify the Discovery and Scheduling Order

Plaintiff seeks an extension of time to file a motion to compel. (ECF No. 106.) In support of the motion, plaintiff states that "defendants' 'co-conspirators' have obstructed [him] from litigating this case." (*Id.* at 1.) He states that he does not currently have access to his property, files, or logs. (*Id.* at 1-2.) He further alleges that he and defendants are presently in the midst of discovery disputes, and he anticipated discussing these issues with counsel during the deposition scheduled for January 8, 2024. (*Id.* at 2.) However, his deposition was cancelled. Thereafter,

1 plaintiff sent an informal letter to defense counsel stating that plaintiff was dissatisfied with the
2 response to several requests for production and if he did not receive the requested discovery
3 within fourteen days, he would file a motion to compel. (Id.)

4 Shortly after plaintiff sent the letter, he received notice that his deposition would take
5 place on February 9, 2024. (Id. at 3.) However, plaintiff was unexpectedly transferred in the
6 middle of the night on February 5, 2024. (Id.) Plaintiff argues he was transferred in violation of
7 prison regulations. (Id.) He states his February 9, 2024, deposition was cancelled, and he has not
8 had access to his property since February 4, 2024.

9 Plaintiff is concerned that he could be transferred again and believes “defendants are
10 ‘pulling strings’ with all these ‘mysterious illegal transfers’ approx[imately] one week later after
11 plaintiff sends a letter to defendants threatening to file a motion to compel” (Id. at 5-6.)

12 Federal Rule of civil Procedure 16(b)(4) provides that, “[a] schedule may be modified
13 only for good cause and with the judge’s consent.” In light of plaintiff’s transfer and because he
14 has not had access to his legal property, the court finds good cause to grant the motion to modify
15 the discovery and scheduling order.

16 **II. Plaintiff’s Motion for Court Intervention**

17 Plaintiff requests an order from this court ordering defense counsel to send plaintiff
18 additional copies of discovery responses. (ECF No. 105.) In support of his request, he states the
19 California Department of Corrections and Rehabilitation (“CDCR”) and defendants “are in
20 cahoots in a conspiracy to obstruct plaintiff from litigating this case.” (Id. at 2.) He received his
21 legal property on December 24, 2023. (Id.) He states he had so much legal paperwork it fills up
22 all 4 lockers in his cell and took him hours to organize. (Id.) He states when he organized his
23 papers, he noticed that he could locate everything except his discovery responses from Dayson,
24 Houston, and Vallar. (Id.)

25 Plaintiff states he wrote to defense counsel asking for a copy of discovery responses. (Id.
26 at 5.) Plaintiff indicates that he has not received a response from counsel. Plaintiff also seeks a
27 sixty-day extension of all discovery deadlines. (Id. at 7.) The court will grant plaintiff’s request

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and order defendants to send plaintiff a copy of defendants Dayson, Houston, and Vallar “Responses to Interrogatories.”

III. Conclusion

For the reasons set forth above, IT IS HEREBY ORDERED that:

1. Plaintiff’s motion to modify the DSO (ECF No. 106) is granted;
2. The DSO is modified as follows:
3. Plaintiff’s motion for court intervention is granted;
4. Defendants shall send plaintiff a copy of the “Responses to Interrogatories” as to defendants Houston, Dayson, and Vallar within fourteen days of the date of this order; and
5. Defendants shall file a statement notifying the court that the copy has been re-served on plaintiff.

Dated: February 26, 2024


DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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